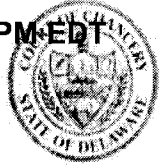


EFiled: Sep 08 2015 04:28PM EDT  
Transaction ID 57830962  
Case No. 11482-



**IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE**

AVERY MARTIN, BRITT RODGERS,  
JOHN GLADE, AND MIKE WOLF,

Plaintiffs,

v.

WESTECH CAPITAL CORP.,  
a Delaware Corporation,

Defendant.

C.A. No. \_\_\_\_\_

**VERIFIED COMPLAINT PURSUANT TO 8 DEL. C. § 211**

Plaintiffs Avery Martin, Britt Rodgers, John Glade, and Mike Wolf (the "Plaintiffs"), by and through undersigned counsel, state and allege against Defendant Westech Capital Corp. ("Westech") as follows:

**BACKGROUND**

1. Plaintiffs make this application as stockholders of Westech seeking an order summarily compelling Westech to hold an annual stockholders' meeting pursuant to 8 *Del. C.* § 211(c) ("Section 211").

2. Westech has not held an annual meeting for a period of more than 13 months since its last annual meeting.

**PARTIES**

3. Plaintiffs are each preferred stockholders of Westech.

4. Westech is a Delaware corporation. Westech's registered agent for service of process in Delaware is the Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801.

### **FACTS**

5. Westech is a holding company founded in 1994 which became a public company in 2001. It has one primary operating subsidiary.

6. There has been no annual meeting of Westech's stockholders for a period of more than 13 months. Westech's last annual meeting took place on September 17, 2013.

7. On April 9, 2015, Plaintiffs sent letters to Westech formally requesting that an annual meeting take place.

8. Westech has failed to designate the time or place for the next annual meeting.

9. Plaintiffs have no adequate remedy at law.

### **COUNT I**

10. Plaintiffs hereby adopt and incorporate as if fully set forth herein the allegations contained in paragraphs 1 through 9 above.

11. Section 211(c) empowers this Court to "summarily order a meeting to be held upon the application of any stockholder..."

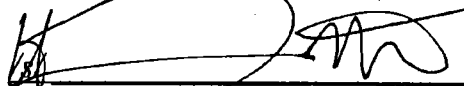
12. It has been in excess of a period of 13 months since Westech last held an annual meeting.

13. By reason of the foregoing, Plaintiffs are entitled to an order of this Court compelling Westech to hold its annual stockholders' meeting.

WHEREFORE, Plaintiffs respectfully request that this Court enter an Order:

- A. Pursuant to Section 211, summarily compelling Westech to hold its annual stockholders' meeting;
- B. Designating a time and a place for such meeting, the record date for the determination of stockholders entitled to vote, and the form of notice of such meeting;
- C. Awarding Plaintiffs their costs and expenses, including reasonable attorneys' fees incurred in the prosecution of this action; and
- D. Granting such other and further relief that this Court deems just and proper.

**BERGER HARRIS LLP**

  
\_\_\_\_\_  
Michael W. McDermott (#4434)

Suzanne H. Holly (#4414)

1105 N. Market St., 11th Floor

Wilmington, DE 19801

(302) 655-1140 telephone

(302) 655-1131 fax

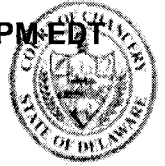
[mmcdermott@bergerharris.com](mailto:mmcdermott@bergerharris.com)

[sholly@bergerharris.com](mailto:sholly@bergerharris.com)

Dated: September 8, 2015

*Attorneys for Plaintiffs*

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WESTECH CAPITAL CORP.,  
a Delaware Corporation,

Defendant.

C.A. No. \_\_\_\_\_

**VERIFICATION OF AVERY MARTIN**

STATE OF TX

COUNTY OF TRAVIS

ss:

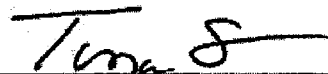
I, Avery Martin, being duly sworn, do hereby depose and state:

1. I am a preferred shareholder of Westech Capital Corporation, the defendant in this action.
2. I have read the foregoing Verified Complaint Pursuant to 8 *Del. C.* § 211(c), which will be filed contemporaneously herewith.
3. The facts alleged therein are true insofar as it relates to my acts and deeds. Upon information and belief, the Verified Complaint is true insofar as it relates to the acts and deeds of other persons.

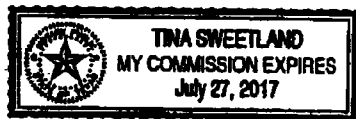
  
Avery Martin

SWORN TO AND SUBSCRIBED before me

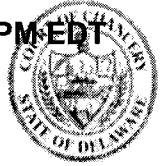
This 8 day of September 2015

  
Notary Public

My Commission expires: July 27, 2017



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**IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE**

AVERY MARTIN, BRITT RODGERS,  
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Plaintiffs,

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WESTECH CAPITAL CORP.,  
a Delaware Corporation,

Defendant.

C.A. No. \_\_\_\_\_

**VERIFICATION OF BRITT RODGERS**

STATE OF Texas

COUNTY OF Travis

ss:

I, Britt Rodgers, being duly sworn, do hereby depose and state:

1. I am a preferred shareholder of Westech Capital Corporation, the defendant in this action.


2. I have read the foregoing Verified Complaint Pursuant to 8 *Del. C.* § 211(c), which will be filed contemporaneously herewith.

3. The facts alleged therein are true insofar as it relates to my acts and deeds. Upon information and belief, the Verified Complaint is true insofar as it relates to the acts and deeds of other persons.

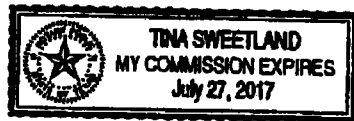
  
Britt Rodgers

SWORN TO AND SUBSCRIBED before me

This 8 day of September 2015

  
Notary Public

My Commission expires: July 27, 2017



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Case No. 11482-



**IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE**

AVERY MARTIN, BRITT RODGERS,  
JOHN GLADE, AND MIKE WOLF,

Plaintiffs,

v.

WESTECH CAPITAL CORP.,  
a Delaware Corporation,

Defendant.

C.A. No. \_\_\_\_\_

**VERIFICATION OF JOHN GLADE**

STATE OF TEXAS

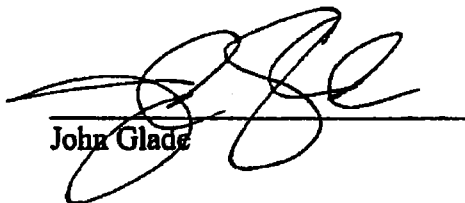
COUNTY OF TRAVIS

ss:

I, John Glade, being duly sworn, do hereby depose and state:

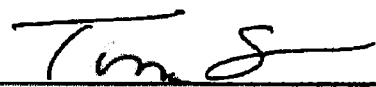
1. I am a preferred shareholder of Westech Capital Corporation, the defendant in this action.
2. I have read the foregoing Verified Complaint Pursuant to 8 *Del. C.* § 211(c), which will be filed contemporaneously herewith.
3. The facts alleged therein are true insofar as it relates to my acts and deeds. Upon information and belief, the Verified Complaint is true insofar as it relates to the acts and deeds of other persons.



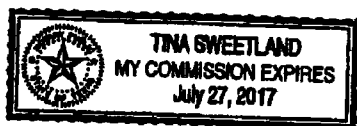
  
John Glade

SWORN TO AND SUBSCRIBED before me

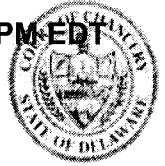
This 8 day of September 2015

  
\_\_\_\_\_  
Notary Public

My Commission expires: July 27, 2017



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**IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE**

AVERY MARTIN, BRITT RODGERS,  
JOHN GLADE, AND MIKE WOLF,

Plaintiffs,

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WESTECH CAPITAL CORP.,  
a Delaware Corporation,

Defendant.

C.A. No. \_\_\_\_\_

**VERIFICATION OF MIKE WOLF**

STATE OF TEXAS

COUNTY OF TRAVIS

ss:


I, Mike Wolf, being duly sworn, do hereby depose and state:

1. I am a preferred shareholder of Westech Capital Corporation, the defendant in this action.
2. I have read the foregoing Verified Complaint Pursuant to 8 *Del. C.* § 211(c), which will be filed contemporaneously herewith.
3. The facts alleged therein are true insofar as it relates to my acts and deeds. Upon information and belief, the Verified Complaint is true insofar as it relates to the acts and deeds of other persons.

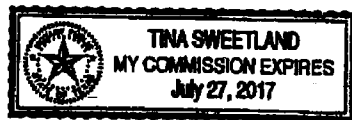
  
Mike Wolf

SWORN TO AND SUBSCRIBED before me

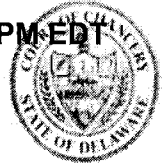
This 8 day of September 2015

  
Notary Public

My Commission expires: July 27, 2017



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Case No. 11482-



**IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE**

AVERY MARTIN, BRITT RODGERS,  
JOHN GLADE, AND MIKE WOLF,

Plaintiffs,

v.

WESTECH CAPITAL CORP.,  
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Defendant.

C.A. No. \_\_\_\_\_

**MOTION FOR EXPEDITED PROCEEDINGS**

Plaintiffs Avery Martin, Britt Rodgers, John Glade, and Mike Wolf (the "Plaintiffs"), by and through their undersigned counsel, hereby move to expedite proceedings in this action. The grounds for this motion are as follows:

**FACTUAL BACKGROUND**

1. Plaintiffs are filing a Verified Complaint Pursuant to 8 *Del. C.* § 211(c) contemporaneously herewith. By the Verified Complaint, Plaintiffs seek an order summarily compelling Westech to hold an annual stockholders' meeting pursuant to 8 *Del. C.* § 211(c) ("Section 211").

2. Westech has not held an annual meeting for a period of more than 13 months.

### **ARGUMENT**

3. Section 211 is a summary proceeding that by its very nature calls for expedition. *See* 8 Del. C. § 211(c); *see also* *NiSource Capital Markets Inc. v. Columbia Energy Group*, 1999 WL 33318815, at \*1 (Del. Ch. June 25, 1999) (“This Court routinely regards actions pursuant to § 211 as summary proceedings, and has in the past heard complaints that rely on § 211 as a reason for expedited consideration.”).

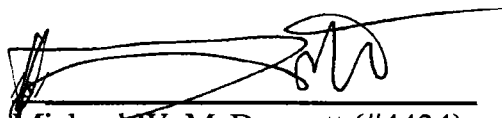
4. Plaintiffs request a schedule that allows for the resolution of this matter within 90 days in order to allow for prompt review of this matter.

### **CONCLUSION**

WHEREFORE, Plaintiffs respectfully request that this Court grant the proposed order expediting this proceeding, and such other and further relief as the Court deems just and proper.

Dated: September 8, 2015

**BERGER HARRIS LLP**



Michael W. McDermott (#4434)  
Suzanne H. Holly (#4414)  
1105 N. Market St., 11th Floor  
Wilmington, DE 19801  
(302) 655-1140 telephone  
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[mmcdermott@bergerharris.com](mailto:mmcdermott@bergerharris.com)  
[sholly@bergerharris.com](mailto:sholly@bergerharris.com)

*Attorneys for Plaintiffs*

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**IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE**

AVERY MARTIN, BRITT RODGERS,	)	
JOHN GLADE, AND MIKE WOLF,	)	
	)	
Plaintiffs,	)	C.A. No. _____
	)	
v.	)	
	)	
WESTECH CAPITAL CORP.,	)	
a Delaware Corporation,	)	
	)	
Defendant.	)	

**[PROPOSED] ORDER GRANTING PLAINTIFFS' MOTION FOR  
EXPEDITED PROCEEDINGS**

WHEREAS, Plaintiffs Avery Martin, Britt Rodgers, John Glade, and Mike Wolf filed a Verified Complaint Pursuant to 8 *Del. C.* §211(c) and a Motion for Expedited Proceedings; and

WHEREAS, the Court having considered the Motion;

IT IS HEREBY ORDERED this \_\_\_\_ day of \_\_\_\_\_ 2015, that the Motion is GRANTED.

\_\_\_\_\_  
Vice Chancellor

**COURT OF CHANCERY OF THE STATE OF DELAWARE**

**AVERY MARTIN, BRITT RODGERS, JOHN GLADE, AND  
MIKE WOLF,**

Plaintiff(s),

vs.

**WESTECH CAPITAL CORP.,**

Defendant(s).

Case No.: 11482

**AFFIDAVIT OF SERVICE**



Received by **D. M. PROFESSIONAL SERVICES** on **09/10/2015** at **11:45 AM** to be served upon:

**WESTECH CAPITAL CORP.**

STATE OF DELAWARE  
COUNTIES OF NEW CASTLE, SUSSEX, KENT ss.

I, **ROBERT DELACY III**, depose and say that:

On **09/10/2015** at **12:10 PM**, I **SERVED** the within **SUMMONS & COMPLAINT** on **WESTECH CAPITAL CORP.** at **CORPORATION TRUST COMPANY 1209 ORANGE ST., Wilmington, DE 19801** in the following manner:

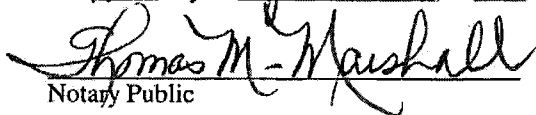
**CORPORATE SERVICE:** By delivering to and leaving same with **AMY MCLAREN**, **AUTHORIZED TO ACCEPT SERVICE** So served and authorized to accept service.


Description of person process was left with:

Sex: **Female** - Skin: **Caucasian** - Hair: **Brown** - Approx. Age: **35** - Height: **5'5"** - Weight: **135**

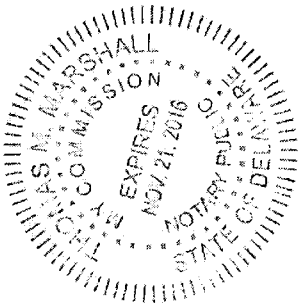
I declare under penalty of perjury that the information contained herein is true and correct and that this affidavit was executed on this 10 day of September, 2015.

Signed and sworn to before me on  
this 10th day of September, 2015.

  
Notary Public

X   
**ROBERT DELACY III**  
Special Process Server  
D. M. PROFESSIONAL SERVICES  
501 SILVERSIDE RD  
WILMINGTON, DE 19809  
302-792-9695

Law Firm: **BERGER HARRIS**  
Atty File#: - Our File#: **173209**



\*173209\*